

SENATE BILL NO. 379

INTRODUCED BY B. TASH

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE BOARD OF ENVIRONMENTAL REVIEW TO ADOPT RULES GOVERNING AUTHORIZATION TO DISCHARGE UNDER A GENERAL PERMIT FOR STORM WATER DISCHARGE ASSOCIATED WITH CONSTRUCTION ACTIVITY; REQUIRING THAT THE RULES AUTHORIZE DISCHARGE UNDER THE GENERAL PERMIT UPON RECEIPT OF A NOTICE OF INTENT AND ~~AN EROSION CONTROL~~ POLLUTION PREVENTION PLAN; AMENDING SECTION 75-5-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-5-401, MCA, is amended to read:

"75-5-401. Board rules for permits -- ground water exclusions. (1) Except as provided in subsection (5), the board shall adopt rules:

(a) governing application for permits to discharge sewage, industrial wastes, or other wastes into state ~~surface waters and ground waters~~, including rules requiring the filing of plans and specifications relating to the construction, modification, or operation of disposal systems;

(b) governing the issuance, denial, modification, or revocation of permits. The board may not require a permit for a water conveyance structure or for a natural spring if the water discharged to state waters does not contain industrial waste, sewage, or other wastes. Discharge to surface water of ground water that is not altered from its ambient quality does not constitute a discharge requiring a permit under this part if:

(i) the discharge does not contain industrial waste, sewage, or other wastes;

(ii) the water discharged does not cause the receiving waters to exceed applicable standards for any parameters; and

(iii) to the extent that the receiving waters in their ambient state exceed standards for any parameters, the discharge does not increase the concentration of the parameters.

(c) governing authorization to discharge under a general permit for storm water associated with construction activity. These rules must allow an owner or operator to notify the department of the intent

1 to be covered under the general permit. This notice of intent must include a signed erosion control
2 POLLUTION PREVENTION plan that requires the applicant to implement best management practices in
3 accordance with the general permit. The rules must authorize the owner or operator to discharge under
4 the general permit on receipt of the notice and plan by the department.

5 (2) The rules must allow the issuance or continuance of a permit only if the department finds that
6 operation consistent with the limitations of the permit will not result in pollution of any state waters,
7 except that the rules may allow the issuance of a temporary permit under which pollution may result if the
8 department ensures that the permit contains a compliance schedule designed to meet all applicable effluent
9 standards and water quality standards in the shortest reasonable period of time.

10 (3) The rules must provide that the department may revoke a permit if the department finds that
11 the holder of the permit has violated its terms, unless the department also finds that the violation was
12 accidental and unforeseeable and that the holder of the permit corrected the condition resulting in the
13 violation as soon as was reasonably possible.

14 (4) The board may adopt rules governing reclamation of sites disturbed by construction,
15 modification, or operation of permitted activities for which a bond is voluntarily filed by a permittee
16 pursuant to 75-5-405, including rules for the establishment of criteria and procedures governing release
17 of the bond or other surety and release of portions of a bond or other surety.

18 (5) Discharges of sewage, industrial wastes, or other wastes into state ground waters from the
19 following activities or operations are not subject to the ground water permit requirements adopted under
20 subsections (1) through (4):

21 (a) discharges or activities at wells injecting fluids associated with oil and gas exploration and
22 production regulated under the federal underground injection control program;

23 (b) disposal by solid waste management systems licensed pursuant to 75-10-221;

24 (c) individuals disposing of their own normal household wastes on their own property;

25 (d) hazardous waste management facilities permitted pursuant to 75-10-406;

26 (e) water injection wells, reserve pits, and produced water pits used in oil and gas field operations
27 and approved pursuant to Title 82, chapter 11;

28 (f) agricultural irrigation facilities;

29 (g) storm water disposal or storm water detention facilities;

30 (h) subsurface disposal systems for sanitary wastes serving individual residences;

1 (i) in situ mining of uranium facilities controlled under Title 82, chapter 4, part 2;

2 (j) mining operations subject to operating permits or exploration licenses in compliance with The
3 Strip and Underground Mine Reclamation Act, Title 82, chapter 4, part 2, or the metal mine reclamation
4 laws, Title 82, chapter 4, part 3; or

5 (k) projects reviewed under the provisions of the Montana Major Facility Siting Act, Title 75,
6 chapter 20.

7 (6) Notwithstanding the provisions of 75-5-301(4), mixing zones for activities excluded from
8 permit requirements under subsection (5) of this section must be established by the permitting agency for
9 those activities in accordance with 75-5-301(4)(a) through (4)(c).

10 (7) Notwithstanding the exclusions set forth in subsection (5), any excluded source that the
11 department determines may be causing or is likely to cause violations of ground water quality standards
12 may be required to submit monitoring information pursuant to 75-5-602.

13 (8) The board may adopt rules identifying other activities or operations from which a discharge
14 of sewage, industrial wastes, or other wastes into state ground waters is not subject to the ground water
15 permit requirements adopted under subsections (1) through (4)."

16
17 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

18 - END -